

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

February 3, 2009

3:30 P.M. SCHEDULED SESSION

3:35 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Willie L. Henry from The New Olivet Baptist Church. Councilman Brown presented Rev. Henry with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of January 27, 2009 with the following motion:

Councilwoman Ware stated that she would like to vote on all the minutes with the exception of one item. Special Item #4, 20 mile radius for residency. She would like to vote no on that one item and yes on all the others. Councilman Lowery asked the Council Attorney for a ruling on Councilwoman Ware's request. After hearing from the Council Attorney and other Council members, Chairman Lowery stated that he was going to rule Councilwoman Ware's request to separate an item, which has already been vote on, and is accurate, is not valid

MOTION: Collins
SECOND: Conrad

AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland,
and Chairman Lowery
NAYS: Brown, Halbert and Ware

APPROVED

14. **RESOLUTION APPROVING CHANGE NO. 6 TO CONTRACT NO. 11020, JANITORIAL SERVICES, WITH KIMCO CORPORATION IN THE FUNDED AMOUNT OF \$935,108.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, FEBRUARY 20, 2009 TO FEBRUARY 19, 2010, WITH A RATE INCREASE OF APPROXIMATELY 3% OVER THE CURRENT YEARLY RATE.)**

DROPPED

15. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11193, JANITORIAL SERVICES, WITH KIMCO CORPORATION IN THE FUNDED AMOUNT OF \$212,936.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, FEBRUARY 28, 2009 TO MARCH 1, 2010, WITH A RATE INCREASE OF APPROXIMATELY 3% OVER THE CURRENT YEARLY RATE.)**

DROPPED

1. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE FOR PASTOR ROBERT C. JONES, JR.**

MOTION: Brown

SECOND: Ford

APPROVED, by unanimous voice vote

CONSENT AGENDA – Items 2-12 and 30 may be acted upon by one motion: SEE PAGE 2791 FOR ROLL CALL

2. **ORDINANCE AMENDING CHAPTER 12-52 OF THE CODE OF ORDINANCES TO BAN THE USE OF PLASTIC CARRIER BAGS DURING PARADES AND PUBLIC ASSEMBLIES; REQUIRE RECYCLE BINS OR BAGS; AND ENCOURAGE USE OF RECYCLED OR RECYCLABLE PRODUCTS, UP FOR F I R S T READING.**

Ordinance No. 5298

APPROVED, on First reading

3. **ORDINANCE TO REQUIRE COUNCIL APPROVAL ON ALL LAWSUITS INITIATED BY THE CITY, UP FOR S E C O N D READING.**

Ordinance No. 5294

APPROVED, on Second reading

4. **ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY ZONING ORDINANCE-REGULATIONS, ADOPTED BY THE SHELBY COUNTY BOARD OF COMMISSIONERS ON OCTOBER 6, 1981 AND BY THE COUNCIL OF THE CITY OF MEMPHIS ON OCTOBER 7, 1981, SO AS TO MAKE CERTAIN CHANGES THEREIN, UP FOR F I R S T READING.**

Ordinance No. 5297
Case No. ZTA 07-004cc

APPROVED, on First reading

5. **ORDINANCE REZONING THE SOUTH SIDE OF MACON ROAD, OPPOSITE DEXTER LANE INTERSECTION CONTAINING 5.44 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) AND GENERAL OFFICE (O-G) DISTRICTS, UP FOR F I R S T READING.**

Ordinance No. 5299
Case No. Z 08-118

APPROVED, on First reading

6. **ORDINANCE REZONING THE NORTH END OF BLEDSOE ROAD CUL-DE-SAC; NORTH OF HOLMES ROAD, CONTAINING 16.91 ACRES IN SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5295
Case No. Z 08-117

APPROVED, on Second reading

7. **ORDINANCE REZONING MOORE ROAD, BEGINNING AT GERMANTOWN PARKWAY AND ENDING AT WALNUT GROVE ROAD, EXTENDING APPROXIMATELY ONE MILE IN LENGTH IN THE AGRICULTURAL (AG) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5296
Case No. SNC 08-802

APPROVED, on Second reading

8. **RESOLUTION ACCEPTING GOODLETT FARMS EAST PLANNED DEVELOPMENT, PHASE 14, AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 90-317cc
(Contract No. CR-5089)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the intersection of Goodlett Farms Parkway and Garrett Ridge. The standard improvement contract was approved on 8/7/2007. Resolution also authorizes the release of the certificate of deposit in the amount of \$55,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

9. **RESOLUTION APPROVING FINAL PLAT OF SIMS DEVELOPMENT COMPANY SUBDIVISION.**

Case No. S 08-016

Resolution approves the final plat located on the west side of Millbranch Road, south of Brooks Road.

City Engineer recommends approval

APPROVED

10. **RESOLUTION APPROVING SEWER PLAN FOR SUMMER RALEIGH SUBDIVISION SEWER EXTENSION.**

Contract No. CR-5132

Resolution approves the sewer plan located at the southeast corner of Summer Ave., and Raleigh LaGrange. Cost of the required improvements to be shared between the City and the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

11. **RESOLUTION APPROVING FINAL PLAT OF SUMMER RALEIGH SUBDIVISION.**

Case No. S 08-007

Contract No. CR-5133

Resolution approves the final plat located on the southeast corner of Summer Ave., and Raleigh LaGrange. Cost the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

12. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 08-324cc – Woodland Hills II P.D., Amended
- B. Case No. PD 08-328cc – Windsor Park P.D.
- C. Case No. PD 08-334

Public Hearing set for February 17, 2009

30. **RESOLUTION REQUESTING A PUBLIC HEARING DATE TO BE HELD ON FEBRUARY 17, 2009, TO AMEND THE COMMUNITY REDEVELOPMENT PLAN FOR THE UPTOWN AREA.**

APPROVED

ROLL CALL CONSENT ITEMS

MOTION: Strickland
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

MLGW FISCAL CONSENT – Items 13, 16-20 and 31 may be acted upon by one motion:

13. **RESOLUTION AWARDED CONTRACT NO. 11313, SAMPLING OF ENERGIZED DISTRIBUTION TRANSFORMERS, TO JACO CONSTRUCTION, INC. IN THE FUNDED AMOUNT OF \$3,593,013.64.**

APPROVED

16. **RESOLUTION AWARDED CONTRACT FOR ONE CENTRAL E-MAIL ARCHIVE SYSTEM TO QUEST SOFTWARE IN THE AMOUNT OF \$55,000.00.**

APPROVED

17. **RESOLUTION APPROVING AGREEMENT WITH GERBER/TAYLOR ASSOCIATES, INC. TO PROVIDE FULL SERVICE INVESTMENT CONSULTING AND INVESTMENT PERFORMANCE EVALUATION SERVICES FOR BENEFIT OF THE MLGW RETIREMENT AND PENSION FUND FOR A FEE NOT TO EXCEED \$121,000.00 PER YEAR.**

APPROVED

18. **RESOLUTION GIVING THE VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$180,416.70 FOR A CLAIMS SETTLEMENT.**

APPROVED

19. **RESOLUTION GIVING THE VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$100,000.00 FOR A CLAIMS SETTLEMENT.**

APPROVED

20. **RESOLUTION GIVING THE VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$44,600.34 FOR A CLAIMS SETTLEMENT.**

APPROVED

31. **RESOLUTION GIVING MLGW'S VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$35,540.68 FOR A CLAIMS SETTLEMENT.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware

SECOND: Ford

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED, with the exception of Items 14 and 15, which were dropped

21. **ORDINANCE TO AMEND THE CODE OF ORDINANCES, OF THE CITY OF MEMPHIS, PERTAINING TO THE CONTRACTS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RELATING TO SETTLEMENT AGREEMENTS UNDER WORKERS' COMPENSATION LAWS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5291

MOTION: Ware

SECOND: Strickland

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

22. **ORDINANCE TO PROVIDE FOR MINIMUM ENERGY EFFICIENCY IN RENTAL PROPERTY, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5292

Chairman Lowery recognized the following persons who spoke from the audience:

Webb A. Brewer, 109 N. Main St., Suite 200, Mphs, TN 38103

Chris Clothier, 2042 Desmond Cv., Mphs, TN 38139

Dexter Muller, 22 N. Front St., Mphs, TN 38103

Kevin Perk, 980 Sheridan St., Mphs, TN 38107

MOTION: Ware

SECOND: Ford

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Lowery

APPROVED, as amended

23. **ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO CHANGE THE REPORTING REQUIREMENTS FOR SMALL BUSINESSES, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5293

MOTION: Ware

SECOND: Morrison

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

24. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF TWO MILLION SIX HUNDRED SIXTY EIGHT THOUSAND FORTY SEVEN DOLLARS (\$2,668,047.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE ADULT FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins

SECOND: Ford

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

25. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF TWENTY FOUR THOUSAND NINE HUNDRED EIGHTY SEVEN DOLLARS (\$24,987.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE RAPID RESPONSE FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins
SECOND: Ford
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

26. **RESOLUTION APPROVING AMENDMENT OF THE FY09 CAPITAL IMPROVEMENT BUDGET TO CREATE ARCHITECTURE AND ENGINEERING FUNDS FOR CIP PROJECT NUMBER PK10013, LIBERTY BOWL ADA SEATING BY MOVING THE ALLOCATION AND APPROPRIATION FROM THE FOLLOWING:**

PK10001 Liberty Bowl Stadium Improvements, \$216,605.00, Architecture and Engineering to PK10013, Liberty Bowl ADA Seating, Architecture and Engineering. PK10007 Liberty Bowl Major Maintenance, \$95,256.00, Architecture and Engineering to PK10013, Liberty Bowl ADA Seating, Architecture and Engineering. PK10010 Liberty Bowl Locker Rooms, \$219,427.00, Architecture and Engineering to PK10013 Liberty Bowl ADA Seating, Architecture and Engineering

MOTION: Strickland
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Strickland, Ware and Chairman Lowery
NAYS: Morrison
Flinn recused
Ford abstained
Hedgepeth did not cast a vote

APPROVED

27. **RESOLUTION APPROVING OLD SCHOOL PICTURES TO USE OVERTON PARK AFTER ESTABLISHED PARK HOURS ON FEBRUARY 10, 2009 FROM 9:00 P.M. TO 1:00 A.M., FOR THE FILMING OF "DAYLIGHT FADES".**

MOTION: Strickland
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

28. **RESOLUTION ACCEPTING GRANT FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE COPS OFFICE FOR THE COPS INTEROPERABLE COMMUNICATIONS TECHNOLOGY GRANT AWARD IN THE AMOUNT OF \$5,997,770.00. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE \$5,997,770.00 IN GRANT FUNDS. THE REQUIREMENT FOR MATCHING FUNDS HAS BEEN MET THROUGH SUPPORT OF THE RTCC.**

MOTION: Hedgepeth

SECOND: Ford

AYES: Boyd, Brown Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

29. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$341,898.00 FUNDED BY G.O. BONDS FROM ADA CURB RAMP, PROJECT NUMBER PW04007 TO ADA CURB RAMPS GROUP 40, PROJECT NUMBER PW04072 TO INSTALL HANDICAP RAMPS AND FOR A CONSTRUCTION CONTRACT WITH ENSCOR, LLC.**

MOTION: Boyd

SECOND: Morrison

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED**MINUTES**

Approval of the Minutes of the regular meeting of February 3, 2009 for Items 18, 19, 20 and 31 only, with the following motion:

MOTION: Ware

SECOND: Boyd

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED**INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:**

The Chairman recognized the following persons who spoke from the audience:

Norman R. Redwing, Jr., 1548 Poplar Ave., Mphs, TN 38104

Minister Suhkara Yahweh, 775 Porter Ave., Mphs, TN 38126

ADJOURNED MEETING AT 5:00 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records